

## Fact Sheet

### Storm Water Discharges from Industrial Activities North Dakota Pollutant Discharge Elimination System (NDPDES) General Permit NDR02-0000

#### Addendum

This addendum discusses changes made to the draft permit before finalizing the general permit based on comments and internal review. Several minor wording changes were made in response to comments received. The most significant was the change in permit number of the final permit to **NDR05-0000** at the request of EPA. This change does not affect applications made for renewing coverage under the reissuance advertised as draft under the previous number. The department will process such applications and will be reassigning new numbers to the facilities that have submitted applications for coverage under the renewal.

Other than the comments received from EPA, the Department received a few comments from facilities that contained general questions on the applicability of the permit to various situations. A response to those who presented questions will be provided on an individual basis following the finalization of the permit. The following is the list of EPA's comments on the draft permit and the Department's responses.

1. *To ensure future integration with national databases and to meet any existing and future data reporting requirements, the permit should be numbered using the PCS Code Table 065, Storm Water General Permit Types. Using the PCS Code Table, the proposed permit would be numbered as NDR050000 (R=stormwater /05=multi-sector), as opposed to NDR020000.*

Response - The permit will be issued with number NDR05-0000 to fit your agency's data system.

2. *EPA is creating a fact sheet for each of the industrial sectors covered under its Multi Sector General Permit (MSGP). It may be advantageous to adapt information from EPA's fact sheets to help clarify the sector-specific expectations for permittees covered under North Dakota's industrial stormwater permit.*

Response – The industrial sectors identified in the state permit correspond to the industrial sectors described in the EPA MSGP. The fact sheets developed by EPA will, in most cases, match the sectors identified in this permit and thus provide an immediate resource for such industries. The Department will consider adding the EPA fact sheet information to its web page as a resource and, overtime, tailor the information to North Dakota's permit.

3. *Part I.D.2.f. The existing application allows for use of section/ township/ range values for site locations. To allow for mapping and analysis of facility information, it is recommended that locations be submitted in the form of latitude and longitude.*

Response – We agree that the latitude and longitude information would be more readily useable for mapping or GIS systems. However, the majority of potential permittees are most familiar with traditional land descriptions. Also, the application form which also applies to our other industrial storm water permit (NDR32-0000) allows for traditional land descriptions. A first step to making application data GIS compatible may be a software conversion of township and range data. While this method will contain some error, the collection of latitude and longitude data can contain error without specific standards for how the data must be obtained.

4. *Part I.D.3. Recent EPA inspections indicate that smaller industrial sites more frequently display significant non-compliance than their larger counterparts. Therefore, it may not be appropriate to collect SWPP plans from sites based on the 50 acre size threshold. A sector-by-sector approach based on results from site inspections could be more effective.*

Response – The 50 acre threshold was used mostly as a matter of consistency with the language used in our other storm water permits. It provides us with SWPP for the largest sites up front. It does not prevent the Department from requiring SWPP plans on a sector basis at a future time when desired by the Department.

5. *For auto recycling and metal salvage facilities, it would be helpful to provide documentation on how mercury switches can be located, removed, and disposed of. EPA Region 5 has developed a series of documents which are available online that describe how to locate and remove mercury switches in various vehicles, and the state of Vermont has developed a document which describes how to locate and remove mercury switches from household appliances. It would be beneficial to reference or provide these documents within guidelines (e.g., Guideline 37) provided for auto and metal salvage facilities.*

Response - We agree that it is important that operators of auto recycling and metal salvage facilities have access to information on how to handle mercury switches and other environmentally sensitive materials. Guidelines for removal, storage and disposal of many of these documents have been developed under solid and hazardous waste rules and programs. The state's Guideline 37 provides a summary of sensitive materials prevalent at salvage sites and guide operators to proper disposal methods and more detailed information. We will suggest that additional references for mercury switches be added to future revisions of the guideline. Another source of information which we may recommend for this sector is the Automotive Recyclers Association. The association is developing an Environmental Compliance for Automotive Recyclers website ([www.ecarcenter.org/](http://www.ecarcenter.org/)) to compile user-friendly fact sheets on 22 relevant topics, such as how to handle used oil and mercury switches.

6. *To encourage the removal of mercury switches from autos and appliances, it would be advantageous to provide a method by which permittees can dispose of their mercury switches. EPA encourages the ND Department of Health to either provide a mechanism for disposal of mercury switches or coordinate with an established program (e.g., the Minnesota Mercury Recovery program) to provide a solution which does not put additional burden on permittees to dispose of a hazardous waste.*

Response - It is essential that there be viable method of disposal for mercury switches and other environmentally sensitive materials encountered in the salvage industry. To assist in the disposal of such materials our Waste Management Division is planning to update its

listing of disposal and recycling facilities for salvage materials as part of its pollution prevention initiative. Considering that mercury is a multimedia issue with interstate implications, maybe EPA could provide a mechanism for disposal of mercury components to facilitate the implementation of regulatory mandates.

7. *The definition for Industrial activity could be revised to reflect that the permit does not cover subsection (x), construction activity.*

Response – The Department chose to include the full list of industrial categories included in the definition of “storm water associated with industrial activity” as established in 40 CFR 122.26 to provide permit readers with the full scope of the regulatory definition. The Department believes it is more appropriate to identify the categories of discharges covered and excluded in the permit conditions rather than altering the scope of the codified definition. The permit (Part I.A.2) explicitly excludes construction activity as well as several other industry categories from coverage under the permit.

8. *To assist with permit compliance and to further clarify the requirements of the general permit, it would be beneficial to provide a sample pollution prevention plan and a sample inspection checklist which operators could use in the field. EPA has several documents which could be adjusted to serve this purpose and could provide assistance in formatting these to serve the Division’s needs.*

Response - The Department intends to revise forms and add other items to the website related to the new permit. We agree that example SWPP plans and field guides would be beneficial and will develop such materials specific to the state as resources are available.

9. *Part I. B. 3. In this section, the permittee is required to adjust pollution prevention plans if there is a numeric wasteload allocation which applies to the facility’s discharges. While the permittee may be required to assume this role, it may not be realistic for permittees to stay on top of the Division’s TMDL process. Therefore, it would be preferable that the Division notifies operators of TMDLs with applicable stormwater wasteload allocations.*

Response – The Department will inform permittees affected by the development of TMDL storm water wasteload allocations based on the location information provided on permit application. The language in Part I.B.3 of the permit is to inform permittees of their obligation to adjust plans in response to an applicable TMDL.

10. *The language in Part I. C. 1. could be changed from “certain facilities as described in Part I. D.” to “certain facilities as described in Part I.D.3” to provide further clarification.*

Response – The reference provided in Part I. C. 1 of permit regarding submittal of the SWPP plan with the application will be revised to provide the specific reference to Part I.D.3.

11. *The language in Part II. C. 4. is vague in describing the timetable for maintenance of BMPs. It would be advantageous to add language specifying a timeframe for when BMPs not operating effectively should be addressed. This issue is addressed in EPA’s Multi-Sector General Permit using the following language:*

- a. *From section 3.11.A of EPA’s MSGP: Based on the results of an inspection, the SWPPP must be modified as necessary to include additional or modified BMPs designed to correct problems identified. Revisions to the SWPPP must be completed*

*within seven (7) calendar days following the inspection. Implementation of these additional or modified BMPs must be accomplished as described in Subpart 3.6.B.*

- b. From section 3.6.B of EPA's MSGP: If existing BMPs need to be modified or if additional BMPs are necessary for any reason, implementation must be completed before the next storm event whenever practicable. If implementation before the next storm event is impracticable, the situation must be documented in the SWPPP and alternative BMPs must be implemented as soon as possible.*

Response – The language in Part II.C.4 pertaining to maintenance of storm water controls and companion language in Part III.A.4.e pertaining to documenting changes to the SWPP plan based on inspections were left unchanged to remain consistent with our other recently issued storm water permits. Given the diversity in size and nature of facilities covered by this permit, the appropriate timeframe for maintenance or modification of controls is difficult to state for all situations that may be encountered and thus dependant on site specific factors. Our language is essentially the same as the EPA language noted in *example b* of your comment. The difference being that EPA introduces an indeterminate time element of “before the next storm event”. There are some inherent problems in planning and implementing a project based on a regulatory deadline that may or may not occur as forecasted. The seven day time (*example a*) is arbitrary and may not be realistic for large changes in the method for handling storm water such as replacing a system of silt fencing and similar technologies with detention systems and improved drainage design. To deal with such situations the timeline ultimately becomes “as soon as practicable”.

- 12. Part III.A.1. Currently, comprehensive site inspections can be performed on consecutive days and still meet the requirements of the permit. To ensure that semi-annual inspections reflect seasonal conditions, further restrictions on when semi-annual inspections can be performed could be provided (e.g., semi-annual inspections should be performed at least once every six months).*

Response – We share the concern you raised and will revise the section. The permit will be revised to indicate that inspections shall be performed at least once every six months.

- 13. To ensure that permittees understand the need to have a signed SWPP plan on site, the signatory requirements at Part IV.E.2. should be expanded to reflect that the SWPP plan is in fact an extension of the permit and a report required under this permit which needs to be signed, dated, and certified.*

Response – The permit explicitly requires that the SWPP plan must be signed in accordance with the signatory requirements in Part II.C.6.a. of the permit. The signatory requirements in the draft permit will remain the same in the final permit as it is our current standard conditions boilerplate language expressing the requirements of 40CFR122.41 (Conditions applicable to all permits) and 40CFR122.22 (Signatories to permit applications and reports).

- 14. The language in Part IV. M. could be changed from “should” to “must” to ensure that new operators are made aware of their obligations under this permit.*

Response – The operator of a discharge under the NPDES rules is ultimately responsible for complying with permit application requirements and discharge restrictions. The suggested change may imply that the new operator could be relieved of the permit

obligation if not informed of the permit by the former owner. As such, the Department will retain the standard condition language as included in the draft permit.

15. *The permit fact sheet could be updated to include information on how Oil and Gas Extraction facilities (SIC 13) are permitted, what exemptions may occur for such facilities, and under what circumstances these facilities would need permit coverage for their stormwater discharges.*

Response – Oil and Gas Extraction facilities (SIC 13) are excluded from the coverage under this permit. These facilities are covered under NDR32-0000 issued July 1, 2004 for storm water discharges from Mining, Extraction and Paving Materials Activities in North Dakota. The conditions and exemptions related to the Oil and Gas Extraction industry are discussed in that general permit and fact sheet.

16. *Part II.6.a. To provide better records for inspectors and to ensure implementation of SWPP plan revisions on site, it is recommended that the permit be amended such that revised plans should be signed and dated according to the signatory requirements set forth in Part IV-E of the permit.*

Response – Some permittees operate multiple facilities subject different permits or rely on consulting services for some aspects of permitting. The Department is striving to make the basic language of the storm water permits more consistent to provide permittees with a more uniform set of requirements to follow in storm water permitting. The Department also recognized a need for uniformity in permits to improve storm water permit outreach and inspection activities. The Department will consider the merits of the suggested requirement and incorporate in the next round of permit renewals if seen as a significant improvement to SWPP plan implementation.

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